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COMMONWEALTH OF MASSACHUSETTS

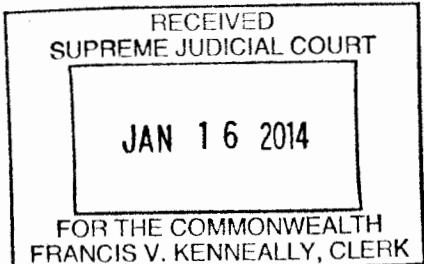
SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR THE COMMONWEALTH
SJC-11530

EMORY G. SNELL, JR.,
Appellant,

v.

OFFICE OF THE CHIEF MEDICAL
EXAMINER,
Appellee.



APPELLEE OFFICE OF THE CHIEF MEDICAL EXAMINER'S
MEMORANDUM IN LIEU OF BRIEF

Introduction

Petitioner-Appellant Emory G. Snell, Jr. ("Snell") seeks to appeal a judgment of a single justice of the Supreme Judicial Court for Suffolk County, in which the single justice (Duffly, J.) denied Snell's petition for a writ of mandamus under G. L. c. 249, § 5.

The Appellee, Office of the Chief Medical Examiner ("OCME"), under Mass. R. App. P. 2, files this Memorandum in lieu of a formal brief, otherwise required by Mass. R. App. P. 16 and 19, in response to Snell's brief filed in this Court. The following memorandum is submitted to demonstrate that the Supreme Judicial Court for Suffolk County (the "County Court") did not abuse its discretion or commit any error of law, in

denying Snell's petition for a writ of mandamus under G. L. c. 249, § 5.

BACKGROUND

Snell's petition for a writ of mandamus requested the single justice to order the OCME to comply with instructions of the Supervisor of Records (of the Public Records Division of the Office of the Secretary of the Commonwealth), contained in a letter dated March 8, 2013. (See Record Appendix attached to Appellant's brief, Exhibits numbered 12 and 14.) Snell had requested, under the Public Records Law, G. L. c. 66, § 10, that the OCME provide to him twenty-seven categories of personnel and other records related to William Zane, M.D., a medical examiner employed by the OCME. Snell had been convicted of first degree murder of his wife in 1995 after a trial at which Dr. Zane had testified regarding his autopsy of the victim in that case. Snell has argued that obtaining these records is important to enable him to establish a basis for obtaining a new trial of his first degree murder indictment. The OCME provided Snell, with nearly 300 pages of records, in response (see Record Appendix Exhibit number 14), but also stated that additional records Snell requested were exempt from disclosure as personnel records. (See G. L. c. 4, § 7 cl 26(c).)

On June 2, 2013, the County Court denied Snell's petition for a writ of mandamus. The County Court's action should not be

overturned, because Snell failed to show that the extraordinary remedy of mandamus should be invoked because there was no clear cut duty on the OCME to act and there was an adequate alternative remedy. See Anzalone v. Administrative Office of the Trial Court, 457 Mass. 647, 654-655 (2010). Certainly, there has been no determination that the OCME actually failed to turn over any nonexempt public record.

The plaintiff sought to have enforced by writ of mandamus a letter of the Supervisor of Records ("Supervisor"), dated March 8, 2013, written in response to plaintiff's appeal of the OCME's production of records. The Supervisor's letter advised the OCME that it should review the records in its possession regarding Dr. Zane, redact as necessary, provide any responsive records to Snell, and/or provide the Supervisor a more detailed response in support of any claim that certain records are "personnel" records under G. L. c. 4, § 7 cl. 26(c). (See Record Appendix Exhibit No. 12.) Snell's petition in the County Court asserted that he had not been provided any further response from the OCME and sought an order from the Single Justice that the OCME comply with the Supervisor's letter of March 8, 2013.

The Single Justice observed in her order that Snell did "not maintain that he has made further inquiry of the Office of the Chief Medical Examiner, since his October, 2012 request, or that he has contacted the Supervisor of Records of the Public

Records Division to be apprised whether the office of the Chief Medical Examiner has again concluded that the records are exempt from disclosure."¹ (See Judgment, p. 3, in Record Appendix.) The Single Justice also observed that Snell had filed, in the Barnstable Superior Court in his first degree murder case, a motion for expanded discovery for personnel records of Dr. Zane, to support his proposed motion for a new trial, and that that discovery motion was pending and had not yet been acted on. (See Judgment, p. 3 in Record Appendix; Criminal Docket attached hereto as Addendum.)

ARGUMENT

Under these circumstances, Snell failed to show that "no other adequate remedy" exists to warrant relief in the nature of mandamus. See Murray v. Commonwealth, 447 Mass. 1010 (2006) (rescript) (internal quotations and citations omitted). Indeed, as the Single Justice observed: "The petitioner has made no showing that a writ of mandamus would be appropriate here, where

¹ Indeed, as explained in the OCME's Motion to Dismiss Appeal as Moot, filed with this Court today, the OCME, by letter of July 1, 2013 to Snell's criminal defense counsel, released additional records sought by Snell and further detailed those records held by OCME as exempt from production, as required by the Supervisor's March 8, 2013 letter. (See Motion and supporting Exhibits separately filed.) The OCME's letter fully complied with the Supervisor's instructions and renders Snell's petition in the County Court, and his appeal to this Court, moot. This is because, Snell having been provided the relief sought, the parties no longer have a stake in this matter and no decision by this Court will apply, or be of any use, to Snell. Thus, the case is moot and should be dismissed on that ground.

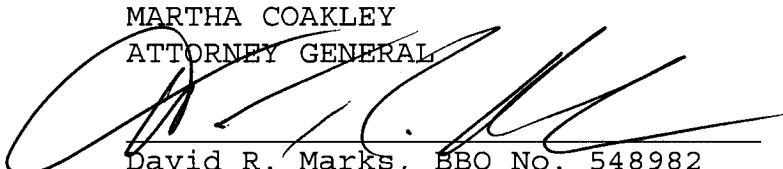
nothing in the record before this Court indicates a refusal to provide the petitioner with any nonexempt record, and where discovery motions concerning these issues are pending in the Superior Court." (See Record Appendix, Judgment, p. 4.) Thus, the petitioner showed no clear cut duty the OCME failed to satisfy and no unavailable adequate remedy. Anzalone v. Administrative Office of the Trial Court, 457 Mass at 654-655. Here, there was no determination that the OCME did not disclose a public record, the Supervisor's letter did not identify any such record, and the petitioner had pending in the Superior Court a motion for such discovery which, if allowed, would entitle him to more records than the public records law would. The judgment of the County Court should be affirmed.

Respectfully submitted,

OFFICE OF THE CHIEF MEDICAL
EXAMINER

By its attorney,

MARTHA COAKLEY
ATTORNEY GENERAL

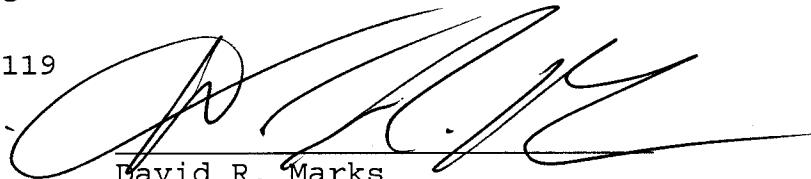

David R. Marks, BBO No. 548982
Assistant Attorney General
Office of the Attorney General
One Ashburton Place, Room 2019
Boston, MA 02108-1698
(617) 963-2362
David.Marks@state.ma.us

Dated: January 16, 2014

CERTIFICATE OF SERVICE

I, David R. Marks, Assistant Attorney General, hereby certify that I have on this day served the within Appellee Office of the Chief Medical Examiner's Memorandum in Lieu of Brief, upon all parties by placing a copy in our office depository for mailing, by first class mail, postage prepaid, to:

Mr. Emory G. Snell, Jr., pro se
965 Elm Street
Concord, Massachusetts 01742-2119



David R. Marks
Assistant Attorney General

Dated: January 16, 2014

ADDENDUM

Barnstable Superior Court, Docket Sheets,
Criminal Docket No., BACR1995-46579.

**Commonwealth of Massachusetts
SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v Snell, Emory G Jr

Details for Docket: BACR1995-46579

Case Information

Docket Number:	BACR1995-46579	Caption:	Commonwealth v Snell, Emory G Jr
Entry Date:	04/19/1995	Case Status:	Criminal 1- Main CtRm
Status Date:	12/17/2012	Session:	Disposed (post sentence activity)
Lead Case:	NA	Deadline Status:	
Trial Deadline:		Jury Trial:	NO

Parties Involved

10 Parties Involved in Docket: BACR1995-46579

Party Involved:		Role:	Defendant
Last Name:	Snell	First Name:	Emory G Jr
Address:	c/o MCI Concord	Address:	PO Box 9106; 965 Elm Street
City:	Concord	State:	MA
Zip Code:	01742	Zip Ext:	
Telephone:			

Party Involved:		Role:	Keeper of Record
Last Name:	Falmouth Hospital	First Name:	
Address:	credenza	Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Party Involved:		Role:	Keeper of Record
Last Name:	Falmouth Hospital	First Name:	TAB #1 rec'd
Address:	re: Snell, Elizabeth	Address:	credenza
City:		State:	

Zip Code:
Telephone:

Zip Ext:

Party Involved:
Last Name: EXHIBITS--Motion to Suppress
Address:
City:
Zip Code:
Telephone:

Role: Other interested party
First Name:
Address:
State:
Zip Ext:

Party Involved:
Last Name: EXHIBITS--Trial
Address:
City:
Zip Code:
Telephone:

Role: Other interested party
First Name:
Address:
State:
Zip Ext:

Party Involved:
Last Name: Supreme Judicial Court
Address:
City:
Zip Code:
Telephone:

Role: Other interested party
First Name: SJ-97-M0040
Address:
State:
Zip Ext:

Party Involved:
Last Name: Supreme Judicial Court
Address:
City:
Zip Code:
Telephone:

Role: Other interested party
First Name: SJC-07301
Address:
State:
Zip Ext:

Party Involved:
Last Name: Commonwealth
Address:
City:
Zip Code:
Telephone:

Role: Plaintiff
First Name:
Address:
State:
Zip Ext:

Party Involved: **Role:** Victim
Last Name: Lee **First Name:** Elizabeth
Address:
City:
Zip Code:
Telephone:
Zip Ext:

Party Involved: **Role:** Victim
Last Name: Snell a/k/a **First Name:** Elizabeth Lee
Address:
City:
Zip Code:
Telephone:
Zip Ext:

Attorneys Involved

8 Attorneys Involved for Docket: BACR1995-46579

Attorney Involved: **Firm Name:** BARN01
Last Name: Holler **First Name:** Julia K
Address: 3231 Main Street **Address:** P O Box 455
City: Barnstable **State:** MA
Zip Code: 02630 **Zip Ext:**
Telephone: 508-362-8113 **Tel Ext:**
Fascimile: 508-362-8221 **Representing:** Commonwealth, (Plaintiff)

Attorney Involved: **Firm Name:**
Last Name: Barter **First Name:** John J
Address: 83 Atlantic Avenue **Address:** 3rd floor
City: Boston **State:** MA
Zip Code: 02110 **Zip Ext:** 3711
Telephone: 617-367-2545 **Tel Ext:**
Fascimile: 617-523-7554 **Representing:** Snell, Emory G Jr (Defendant)

Attorney Involved: **Firm Name:**
Last Name: Pelletier **First Name:** Gary G

Address:	37 Belmont Street	Address:	
City:	Brockton	State:	MA
Zip Code:		Zip Ext:	
Telephone:	617-650-6719	Tel Ext:	
Fascimile:		Representing:	Snell, Emory G Jr (Defendant)

Attorney Involved:		Firm Name:	
Last Name:	Marmar	First Name:	Irving
Address:	316 North Harvard St.	Address:	
City:	Allston	State:	MA
Zip Code:	02134	Zip Ext:	2233
Telephone:	617-227-0500	Tel Ext:	
Fascimile:		Representing:	Snell, Emory G Jr (Defendant)

Attorney Involved:		Firm Name:	
Last Name:	Bielitz Jr	First Name:	Albert C
Address:	15 Hayden Lane	Address:	
City:	Bedford	State:	MA
Zip Code:	01730	Zip Ext:	
Telephone:	781-275-2891	Tel Ext:	
Fascimile:		Representing:	Snell, Emory G Jr (Defendant)

Attorney Involved:		Firm Name:	BLO006
Last Name:	Bloomenthal	First Name:	Robert T
Address:	2 Summer Street	Address:	
City:	Natick	State:	MA
Zip Code:	01760	Zip Ext:	
Telephone:	781-257-5041	Tel Ext:	
Fascimile:		Representing:	Snell, Emory G Jr (Defendant)

Attorney Involved:		Firm Name:	BLO006
Last Name:	Bloomenthal	First Name:	Sandra F
Address:	One Tara Blvd	Address:	Suite 200
City:	Nashua	State:	NH
Zip Code:	03062	Zip Ext:	
Telephone:	508-274-2684	Tel Ext:	

Fascimile:	603-324-7101	Representing:	Snell, Emory G Jr (Defendant)
Attorney Involved:		Firm Name:	
Last Name:	Mycock	First Name:	Frederick C.
Address:	3291 Main Street	Address:	P O Box 730
City:	Barnstable	State:	MA
Zip Code:	02630	Zip Ext:	
Telephone:	508-362-4336	Tel Ext:	
Fascimile:	508-362-7770	Representing:	Snell, Emory G Jr (Defendant)

Calendar Events

4 Calendar Events for Docket: BACR1995-46579

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	11/09/2011	09:00	Status: Administrative Review	1	Event canceled not re-scheduled
2	07/19/2013	09:00	Status: Administrative Review	1	Event held as scheduled
3	08/09/2013	10:00	Conference: Status Review	1	Event held as scheduled
4	09/06/2013	09:00	Conference: Status Review	1	Event canceled not re-scheduled

Full Docket Entries

428 Docket Entries for Docket: BACR1995-46579

Entry Date:	Paper No:	Docket Entry:
04/19/1995	1	Indictment returned (Murder--First Degree)
04/19/1995		Case entered in 2011--See docket book 63 for original docket
04/19/1995		information ; copy of original docket sheet in case
04/20/1995	2	Notice & copy of indictment sent to Chief Justice, Attorney General
04/20/1995		and Regional Administrative Justice (G.L. Chapter 212, Section 7)
04/20/1995	3	Order of the Court and copy of indictment for service on defendant
04/20/1995		(G.L. Chapter 277, Section 65)
04/21/1995		RE Offense 1:Plea of not guilty
04/21/1995	4	Appearance of Deft's Atty: Sandra F Bloomenthal
04/21/1995	5	Appearance of Deft's Atty: Frederick C Mycock for arraignment only
04/21/1995		Mittimus for continuance issued to Barnstable County Correctional
04/21/1995		Facility
04/21/1995	6	Mittimus for continuance returned with service
04/21/1995		Bail: Defendant held without bail, without prejudice (O'Neill,
04/21/1995		Justice)

04/21/1995 Continued to 4/27/1995 for hearing on pre-trial conference--the Court
04/21/1995 may address the question of bail at this time (O'Neill, Justice)
04/21/1995 Continued to 8/1995 trial (O'Neill, Justice)
04/22/1995 7 Appearance of Deft's Atty: Robert T Bloomenthal
04/27/1995 8 Appearance of Deft's Atty: Albert C Bielitz Jr
04/27/1995 9 MOTION by Deft: for bill of particulars; Allowed; one week for
 compliance (O'Neill, Justice)
04/27/1995 10 MOTION by Deft: to preserve police transmission and turret tapes;
04/27/1995 10 Agreed to if tapes are available (O'Neill, Justice)
04/27/1995 11 MOTION by Deft: for prima facia evidence; No action (O'Neill, Justice)
04/27/1995 12 MOTION by Deft: for payment of counsel, experts and expenses with
 affidavit of counsel in support
04/27/1995 Continued to 6/9/1995 for non-evidentiary hearing (O'Neill, Justice)
05/02/1995 13 Pre-trial conference report filed
05/18/1995 14 Commonwealth files bill of particulars
05/25/1995 15 MOTION by Deft: for list of persons interviewed
05/25/1995 16 MOTION by Deft: for the delivery of police telephone and transmission
 tapes
05/25/1995 17 MOTION by Deft: for list of persons involved in the investigation
05/25/1995 18 MOTION by Deft: for disclosure of booking sheets
05/25/1995 19 MOTION by Deft: for disclosure of criminal, juvenile, arrest, parole
 and probation records of the victim and Commonwealth's witnesses
05/25/1995 20 MOTION by Deft: for inspection of hospital records
05/25/1995 21 MOTION by Deft: for discovery of government's intention to use
 evidence of prior bad acts
05/25/1995 22 MOTION by Deft: for notification of confidential informants
05/25/1995 23 MOTION by Deft: to inspect scientific and physical evidence
05/25/1995 24 MOTION by Deft: in re: scientific evidence expert witnesses
05/25/1995 25 MOTION by Deft: for intra-departmental and inter-departmental records
05/25/1995 25 and reports
05/25/1995 26 MOTION by Deft: for discovery pertaining to fingerprints
05/25/1995 27 MOTION by Deft: for production of handwritten notes and/or tape
 recordings of witness interviews
05/25/1995 28 MOTION by Deft: for photographs and/or video tapes
05/25/1995 29 MOTION by Deft: for production of police reports handwritten notes
 and tape recordings
05/25/1995 29 MOTION by Deft: to be furnished with statements and/or promises of
 rewards and inducements
05/25/1995 30 MOTION by Deft: to be furnished with names, addresses and dates of
 birth of government witnesses
05/25/1995 31 MOTION by Deft: to file additional motions
06/07/1995 33 Commonwealth files answers to defendant's motion for discovery

06/00/1005

34 MOTION by Deft: to restrict prosecution in addressing defendant
06/09/1995 35 MOTION by Deft: re: medical care
06/09/1995 36 MOTION by Deft: re: bullet proof vest
06/09/1995 37 MOTION by Deft: re: transportation
06/09/1995 38 MOTION by Deft: for additional library time
06/09/1995 39 MOTION by Deft: for additional telephone access
06/09/1995 MOTION (P#15)---See answers of Commonwealth (Dolan, Justice)
06/15/1995 MOTION (P#18) --No action (Dolan, Justice)
06/15/1995 MOTION (P#19) allowed, to extent of Commonwealth's knowledge (Dolan,
06/15/1995 Justice)
06/15/1995 MOTION (P#20) allowed, records to be delivered sealed--review in
camera (Dolan, Justice)
06/15/1995 MOTION (P#21) Commonwealth to indicate same by 07/15/1995 (Dolan,
06/15/1995 Justice)
06/15/1995 MOTION (P#23) Hold (Dolan, Justice)
06/15/1995 MOTION (P#25) allowed to extent that Commonwealth has same (Dolan,
06/15/1995 Justice)
06/15/1995 MOTION (P#26) Further inquiry (Dolan, Justice)
06/15/1995 MOTION (P#28) allowed (Dolan, Justice)
06/15/1995 MOTION (P#39) defense attorney to refer to Sheriff for action (Dolan,
06/15/1995 Justice)
06/15/1995 40 MOTION by Deft: for funds to obtain services of private investigator;
06/15/1995 40 Allowed--to \$5,000.00; Note-also-lien of Commonwealth to be filed
(Dolan, Justice)
06/15/1995 41 MOTION by Deft: for funds to obtain services of questioned document
expert
06/15/1995 42 MOTION by Deft: for funds to obtain services of accountant as expert
06/15/1995 43 Deft files affidavit in support of motions #, #, and #
06/15/1995 44 MOTION by Deft: for deposition
06/15/1995 45 MOTION by Deft: for funds to obtain services of experts with
affidavit in support
06/15/1995 MOTION (P#22) No action (Dolan, Justice)
06/15/1995 MOTION (P#27) --See commonwealth's answers (Dolan, Justice)
06/15/1995 MOTION (P#29) --See commonwealth's answers (Dolan, Justice)
06/15/1995 MOTION (P#30) No action (Dolan, Justice)
06/15/1995 MOTION (P#31) allowed (Dolan, Justice)
06/15/1995 MOTION (P#32) allowed (Dolan, Justice)
06/15/1995 MOTION (P#34) allowed (Dolan, Justice)
06/17/1995 46 MOTION by Commonwealth: for reciprocal discovery
06/29/1995 47 MOTION by Deft: to compel filed and allowed by agreement, subject to

06/29/1995

	47	limitations on the record (Dolan, Justice)
06/29/1995		Continued to 7/7/1995 for compliance; continued to 07/25/1995 for
06/29/1995		hearing on the motions; continued to 08/21/1995 for trial (Dolan,
06/29/1995		Justice)
06/30/1995	48	MEMORANDUM OF CONDITIONS ON ALLOWANCE of Motion for Funds to Obtain
06/30/1995	48	Services of Private Investigator (Dolan, Justice) copies to attys
07/17/1995	49	MOTION by Deft: for independent testing with affidavit in support
07/17/1995	50	MOTION by Deft: to dismiss due to destruction of evidence with
07/17/1995	50	affidavit and memorandum of law in support
07/17/1995	51	MOTION by Deft: to compel II
07/17/1995	52	MOTION by Deft: to suppress defendant's statements with affidavit and
07/17/1995	52	memorandum of law in support
07/17/1995	53	MOTION by Deft: to suppress the fruits of warrantless search of 1051
07/17/1995	53	Putnam Avenue Extension, Marstons Mills, with affidavit in support
07/17/1995	54	MOTION by Deft: to suppress the fruits of search warrant upon
07/17/1995	54	Mitsubishi box style truck with affidavit and memorandum of law in
07/17/1995	54	support
07/17/1995	55	MOTION by Deft: to suppress the fruits of a warrantless search of
07/17/1995	55	Mitsubishi box style truck, Georgia registration with affidavit and
07/17/1995	55	memorandum of law in support
07/17/1995	56	MOTION by Deft: to suppress the fruits of a search warrant executed
07/17/1995	56	at 1051 Putnam Avenue Extension, Marstons Mills, with affidavit and
07/17/1995	56	memorandum of law in support
07/17/1995	57	MOTION by Deft: to dismiss (McCarthy) with affidavit and memorandum
07/17/1995	57	of law in support (GJ Transcripts of hearing are in envelope)
07/21/1995		MOTION (P#24) allowed without objection, and its further ordered that
07/21/1995		the State Police Crime Laboratory turn over said items to Defendant's
07/21/1995		Attorney, Albert Bielitz, Jr., (Connon, Justice) copies to attys
07/25/1995	58	Deft files affidavit in support of motion #--to be examined in camera
07/25/1995	58	(Travers, Justice)
07/26/1995	59	MOTION by Commonwealth: for reciprocal discovery allowed, compliance
07/26/1995	59	by 08/07/1995 (Travers, Justice)
07/26/1995	60	MOTION by Deft: for funds to transcribe hearings filed; Allowed;
07/26/1995	60	defendant at this time does not have funds available--if these funds
07/26/1995	60	become available they may be held to reimburse payment (Travers,
07/26/1995	60	Justice)
07/26/1995	61	Deft files affidavit in support of motion #--after in camera review,
07/26/1995	61	IMPOUNDED (Travers, Justice)
07/26/1995		MOTION (P#49) --see record for action on motion (Travers, Justice)
07/26/1995	62	MOTION by Deft: for hair and blood sample--IMPOUNDED--see transcript
07/26/1995	62	of lobby conference this date (Travers, Justice)
07/26/1995		MOTION (P#46) allowed ; compliance by 08/07/1995 (Travers, Justice)

08/02/1995

63 Commonwealth files memorandum of law in opposition to the defendant's motion to dismiss and suppress
08/02/1995 63 MOTION by Deft: for police logs filed; Allowed (Travers, Justice)
08/02/1995 64 MOTION by Deft: for additional funds to obtain services of private investigator filed; Allowed, defendant at this time does not have funds
08/02/1995 65 MOTION by Deft: to compel III filed; Allowed, except as to date contained in it (Travers, Justice)
08/02/1995 66 Continued to 8/11/1995 for status by agreement of counsel (Travers, Justice)
08/02/1995 67 MEMORANDUM & DECISION on Motion to Suppress Defendant's Statements---Denied (Travers, Justice) copies to attys
08/07/1995 68 DECISION on Defendant's Motions to Suppress Evidence Seized without a warrant (The truck, the defendant's home); Denied (Travers, Justice) copies to attys
08/07/1995 68 DECISION on Defendant's Motions to suppress evidence seized pursuant to search warrants (search of truck, search of defendant's home); Denied (Travers, Justice) copies to attys
08/07/1995 69 MOTION (P#57) denied (Travers, Justice) attys notified
08/11/1995 70 MOTION by Deft: to continue trial date with affidavit in support
08/11/1995 Continued to 8/14/1995 for status and hearing on the motion to continue trial date (Travers, Justice)
08/11/1995 71 MOTION by Deft: for additional DNA testing with affidavit in support
08/14/1995 72 MOTION by Deft: for indigent subpoenas
08/14/1995 73 MOTION by Deft: for transfer of trial
08/14/1995 74 MOTION by Deft: for change of veniremen
08/14/1995 75 MOTION by Deft: to sequester jury
08/14/1995 76 DECISION on pending motions---Motions #70 and #71 denied; Motion #72 allowed; Motions #73, #74, and #75 denied without prejudice (Travers, Justice)
08/14/1995 76 DECISION on defendant's motion to dismiss due to destruction of evidence---Denied (Travers, Justice)
08/17/1995 77 Trial by Jury (Travers, Justice)
08/21/1995 78 MOTION by Deft: for suggested questions to the jury asked on an individual basis
08/21/1995 78 MOTION by Deft: for additional questions to the jury asked on an individual basis
08/21/1995 79 List of witnesses
08/22/1995 81 MOTION by Deft: for a view (see record for action) (Travers, Justice)
08/23/1995 82 MOTION by Deft: in limine (preservation of record)--No action (Travers, Justice)
08/23/1995 82 MOTION by Deft: for funds for crime scene expert--defendant to file

08/23/1995

83 affidavit before court will action on the motion (Travers, Justice)
08/23/1995 84 MOTION by Deft: in limine to prohibit evidence of prior misconduct
08/23/1995 85 Commonwealth files memorandum in opposition to defendant's motion in
limine to prohibit evidence of prior misconduct
08/23/1995 85 Commonwealth files memorandum of law in support of admissibility of
prior bad act evidence
08/23/1995 86 Deft files statement of facts in opposition to admissibility of
evidence of prior bad acts
08/23/1995 87 MOTION by Deft: in limine (Commonwealth's witnesses)
08/23/1995 88 MOTION by Deft: in limine to preclude the Commonwealth from
introducing into evidence or showing the jury photographs of the
victim--No action (Travers, Justice)
08/23/1995 89 MOTION by Deft: in limine (victim/witness advocates) filed; Denied
(Travers, Justice)
08/23/1995 90 MOTION by Deft: in limine (ADA displaying potential exhibits during
his opening statement)--No action (Travers, Justice)
08/23/1995 91 MOTION by Deft: in limine (ADA not to use the term "victim")--No
action (Travers, Justice)
08/24/1995 92 Deft files in support of motion #
08/30/1995 Defendant's oral motion for required finding of not guilty at
close of Commonwealth's evidence; Denied (Travers, Justice)
08/31/1995 Defendant's renewed oral motion for required finding of not guilty at
close of all evidence; Denied (Travers, Justice)
08/31/1995 94 MOTION by Deft: in limine to preclude Assistant District Attorney
from making reference to battered woman's syndrome in closing argument
08/31/1995 95 MOTION by Deft: to sequester
08/31/1995 96 MOTION by Deft: to request that the court charge on defendant's
failure to take the witness stand
08/31/1995 96 MOTION by Deft: in limine
08/31/1995 97 RE Offense 1:Guilty verdict--Offense as charged
09/01/1995 Defendant notified of right to receive credit for time served;
Sentence credit given as per 279:33A: 165 days
09/01/1995 98 VERDICT SLIP---OFFENSE #1---Verdict of guilty--Offense as Charged
09/01/1995 Defendant sentenced to MCI Cedar Junction for natural life; \$50.00
victim/witness fee assessed (Travers, Justice)
09/01/1995 Notified of right of appeal pursuant to the Rules of Appellate
Procedure under Rule 65
09/01/1995 99 Mittimus issued to Cedar Junction MCI (Walpole) with copy of
indictment
09/01/1995 99 Motion of Albert C Bielitz Jr, Robert T Bloomenthal, Sandra F
Bloomenthal for leave to withdraw appearance for defendant
09/01/1995 100 MOTION by Deft: for funds for a chemist (Copy to Mr Justice Travers
09/01/1995 101

00/01/1995

101 9/15/95)
09/01/1995 102 MOTION by Deft: for funds for private detective (copy to Mr Justice
Travers 9/15/95)
09/01/1995 103 MOTION by Deft: for funds for mechanic (copy to Mr Justice Travers
9/15/95)
09/01/1995 103 MOTION by Deft: for funds for a meteorologist (copy to Mr Justice
Travers 9/15/95)
09/01/1995 104 NOTICE of APPEAL FILED by Emory G Jr Snell, W#59191 (copy to ADA and
Mr Justice Travers)
09/01/1995 105 Deft files affidavit in support of motions #, #, and #
09/11/1995 107 Notice of appeal from sentence to Cedar Junction MCI (Walpole) filed
by Emory G Jr Snell, W#59191, pro se
09/11/1995 108 Certificate (3) re order for transcript (copy to court reporter
Daniel Horgan, Linda Kelly, and Caroline Marshall-Smith)
09/27/1995 Transcript of motion to suppress hearing (2 volumes) received
10/02/1995 109 General correspondence from Robert J Shone, Assistant Clerk,
Appellate Division of the Superior Court to Defendant, Emory G Snell,
Jr., regarding Appeal not accepted for filing as disposition cannot
be appealed to the Appellate Division; copy filed
10/12/1995 110 Notice of appeal from sentence to Cedar Junction MCI (Walpole) filed
by Emory G Jr Snell, W#59191, pro se
10/23/1995 111 Notice of assignment of Committee for Public Counsel as counsel for
defendant for appeal purposes (Herbert F Travers, Jr., Justice)
10/23/1995 MOTION (P#104) --Allowed, defendant at this time does not have funds
available, they may be held to reimburse payment (Travers, Justice)
10/23/1995 Motion (P#100) of Albert C Bielitz Jr, Robert T Bloomenthal, Sandra F
Bloomenthal for leave to withdraw appearance for defendant ; Allowed
(Travers, Justice) attys notified
10/24/1995 113 Pro Se MOTION by Deft: for restraining order
11/02/1995 112 Victim-witness fee paid as assessed
11/14/1995 114 General correspondence from District Attorney to Atty Bloomenthal re:
scheduled hearing date for 11/20/1995 for status relative to
outstanding bills
11/20/1995 115 MOTION by Commonwealth: for order of payment; Allowed, subject to the
same terms and conditions contained in the Memoranda of Dolan, J,
dated 06/30/95 (O'Neill, Justice) attys notified
11/27/1995 116 MOTION by Deft: for enlargement of time pursuant to MRCP 29(A) with
memorandum and affidavit in support (copies to DA and Mr Justice
Travers 12/05/95)
12/11/1995 117 Pro se MOTION by Deft: ordering Attorneys Bloomenthal and Bielitz to
surrender and deliver all legal documents, notes and products of
discovery to Snell with affidavit and memorandum of law in support
12/12/1995

	118	Notice of Appearance of Deft's Atty: John J Barter for appeal
12/13/1995	119	Appearance of Deft's Atty: John J Barter
01/18/1996		MOTION (P#116) This court has no authority to grant the request.
01/18/1996		Moreover, the rule does not apply to defendant's sentence. The motion
01/18/1996		is therefore, denied without hearing (Travers, Justice) attys
01/18/1996		notified 1/23/96
05/13/1996		Transcript of Motion to Suppress Hearing (3 volumes)
05/13/1996		Transcript of Motion to Continue Hearing (1 volume)
05/13/1996		Transcript of Testimony (9 volumes)
05/30/1996	120	MOTION by Deft: to return all property not specifically held for
05/30/1996	120	evidence or as exhibits on commonwealth's list of evidence or
05/30/1996	120	exhibits and affidavit of indigency and request for waiver with
05/30/1996	120	affidavit in support (copy to atty 06/03/96)
08/14/1996		Transcript of Testimony (1 volume)
09/26/1996	121	Notice of assembly of record; mailed to Supreme Judicial Court per
09/26/1996	121	Rule 9
09/11/1997	122	ORDER--This matter came before the Court, Marshall, J., presiding, on
09/11/1997	122	an Order of Reference for disposition of the Defendant-Appellant's
09/11/1997	122	Motion to Stay Appeal Pending Determination on the Filing of
09/11/1997	122	Defendant's Motion for Post Conviction Relief Up to October 6, 1997.
09/11/1997	122	Upon consideration thereof, it is ORDERED that the
09/11/1997	122	Defendant-Appellant's Motion to Stay Appeal is denied without
09/11/1997	122	prejudice to refile should the defendant file a motion for new trial.
09/11/1997	122	It is FURTHER ORDERED that the defendant-appellant is to file his
09/11/1997	122	brief within forty-five days of this Order. (Marshall, J; Doyle,
09/11/1997	122	Clerk) received 09/19/1997
10/30/1997	123	ORDER from Supreme Judicial Court on defendant's petition for relief
10/30/1997	123	pursuant to GL c.278, sec.33E---ORDERED that the appellate
10/30/1997	123	proceedings in this case be stayed pending the outcome of his motion
10/30/1997	123	for new trial. It is further ORDERED that the defendant's motion for
10/30/1997	123	new trial be, and it is hereby, remanded for determination to the
10/30/1997	123	Barnstable Division, case number #46579, Superior Court Department of
10/30/1997	123	the Trial Court (Jean Kennett, Clerk, sitting 10/30/97 at Boston)
10/30/1997	123	received 11/03/1997
11/03/1997	124	MOTION by Deft: for post conviction relief with memorandum in support
11/03/1997	124	(copy to Travers, Justice 11/12/1997)
02/09/1998	125	DECISION on motion for post conviction relief---DENIED without a
02/09/1998	125	hearing (Travers, Justice) sitting at Worcester Superior Court
02/09/1998	125	02/09/1998; attys notified ; received 02/11/1998
03/10/1998	126	NOTICE of APPEAL FILED by Emory G Jr Snell, W#59191 from denial of
03/10/1998	126	motion for post conviction relief (copy to DA and Mr Justice Travers
03/10/1998	126	and Supreme Judicial Court 3/23/98)

02/10/1000

127 MOTION by Deft: for reconsideration of decision on motion for post
03/10/1998 127 conviction relief
03/11/1998 MOTION (P#127) motion for reconsideration denied without a hearing
03/11/1998 (Travers, Justice; sitting at Worcester Superior Court 03/11/98;
03/11/1998 attys notified 03/19/1998
03/12/1998 128 NOTICE of APPEAL FILED by Emory G Jr Snell, W#59191 from Denial of
03/12/1998 128 Motion for Post Conviction Relief
03/12/1998 129 Emory G Jr Snell, W#59191 files motion for reconsideration of
03/12/1998 129 decision on motion for post conviction relief
03/23/1998 130 Notice of assembly of record; mailed to Supreme Judicial Court per
03/23/1998 130 Rule 9
03/25/1998 131 NOTICE of APPEAL FILED by Emory G Jr Snell, W#59191 from orders and
03/25/1998 131 judgments including the denial of motion for reconsideration for post
03/25/1998 131 conviction relief on 03/11/1998 (copy to DA and Justice Travers and
03/25/1998 131 Supreme Judicial Court 03/30/1998)
04/27/1998 Transcript of Testimony (Addendum) (1 volume)
04/29/1998 132 Notice of assembly of record; mailed to Supreme Judicial Court per
04/29/1998 132 Rule 9
11/05/1998 133 Order from SJC (Kennett, Clerk) received 11/12/1998
02/02/1999 134 Rescript (received 03/05/1999) re: Motion for Post Conviction Relief;
02/02/1999 134 received from SJC; judgment AFFIRMED
12/20/1999 135 PRO SE MOTION by Deft: for a new trial with affidavit in support and
12/20/1999 135 exhibits
12/20/1999 136 PRO SE MOTION by Deft: for assignment of counsel with affidavit in
12/20/1999 136 support
03/16/2000 137 MEMORANDUM OF DECISION & ORDER on Defendant's Motion for New Trial,
03/16/2000 137 DENIED (Connon, Justice) copies to deft and ADA
03/27/2000 138 Pro Se NOTICE of APPEAL from Denial of Rule 30(a) & (b); FILED by
03/27/2000 138 Emory G Jr Snell, W#59191
12/13/2000 139 ORDERED: Destruction of records (O'Neill, Justice)
05/07/2001 140 Deft files copy of letter to SJC
12/21/2001 141 Notice of Docket Entry from SJC (re: Motion to Enlarge Time to
12/21/2001 141 Respond...; Allowed without hearing) received
03/26/2002 142 Notice of Docket Entry from SJC (re: Motion for further enlargement
03/26/2002 142 of time to file brief.....Denied without hearing) received
07/29/2002 143 Rescript (07/26/2002) received from SJC---The defendant's petition is
07/29/2002 143 DENIED
02/05/2003 144 MOTION by Deft: for copies of clerk retained records
02/06/2003 144 MOTION (P#144) for copies of clerk retained records: Docket to be
02/06/2003 sent to defendant (Connon, Justice)
08/11/2003 145 General correspondence from CPCs regarding Screening Assignment
12/16/2005 146 Appearance of Deft's Atty: Irving Marmer

	147	MOTION by Deft: for written discovery; Allowed (Connon, Justice)
12/16/2005	148	ORDER re: defendant's motion for written discovery (Connon, Justice)
12/16/2005	148	copies mailed 1/27/06; cert copy to Medical Examiner)
03/14/2008	149	General correspondence from Attorney Marmer regarding request for access to exhibits
03/14/2008	149	General correspondence from Attorney Marmer regarding exhibits
04/18/2008	150	General correspondence to defendant regarding Affidavit in support of Motion for Funds to Secure Expert Pathologists was returned to defendant; The Court is not in receipt of the Motion
08/23/2011	151	MOTION by Deft: for Expert Funds to Retain Thomas W. Young, Pathologist
08/29/2011	153	MOTION by Deft: for Expert Funds to Retain Meteorologist, Tim Kelley
08/29/2011	155	Deft files Affidavit in support of Motion for Funds to secure Expert Pathologists
08/29/2011	156	Deft files Request for Short Notice Hearing
08/29/2011	152	Deft files Affidavit of Indigency --CONFIDENTIAL
09/02/2011	157	MOTION by Deft: to permit funds for forensic experts with affidavit and exhibits in support and request for hearing
09/02/2011	158	Appearance of Deft's Atty: Gary G Pelletier
09/02/2011	159	Withdrawal of appearance filed by Irving Marmer for Emory G Jr Snell, W#59191
09/09/2011		MOTION (P#157) The Commonwealth is directed to file its opposition hereto, if any, within 60 days (Nickerson, J) copies faxed ADA, GP
09/16/2011	160	RENEWED MOTION by Deft: to Permit Funds for Forensic Experts
12/06/2011	161	General correspondence to Justice Nickerson, sitting at Bristol
12/06/2011	161	Superior Court at Fall River regarding any action if any re: P#160 & #157; copy of docket attached; letter cc'd to attys
12/06/2011	161	Matter assigned to Muse, J. (Gary A. Nickerson, Justice, RAJ)
01/05/2012		MOTION (P#160) denied without prejudice to renew, following expected filing of Rule 30 Motion; Commonwealth will file response within 60 days of receipt. (Muse, Justice). Copies mailed to GGP, ADA
02/10/2012		MOTION by Deft: for Enlargement of 2005 Discovery Order to Include
02/10/2012		Personnel File
02/10/2012		MOTION (P#162) The Commonwealth is directed to file its opposition to this motion, if any, within 30 days. (Gary A. Nickerson, Justice).
09/13/2012	162	Copies mailed
09/13/2012	162	Commonwealth files Opposition to Defendant's Motion for Enlargement of Discovery Order (P#162) Copy to Nickerson, Justice with copy of P#162 sitting at Fall River Superior Court
10/25/2012	163	Correspondence to Nickerson, Justice, sitting at Fall River Superior Court, with copy of P#162, P#163 and docket entries
10/25/2012	164	MOTION by Deft: to bring notice to the Court of Commonwealth's lack
11/23/2012	165	

	165	of candor evidenced by Commonwealth's opposition to include Internal Affairs Investigations of M.E. William Zane, Affidavit in support
11/23/2012	165	Correspondence to Nickerson, Justice, sitting at Fall River Superior Court, with copy of P#165 and docket entries
11/26/2012	166	MOTION by Deft: for Declaration of Indigency, Memorandum in support, Affidavit in support
11/30/2012	167	Defendant's motion for new trial, Memorandum in support, Affidavit in support
12/17/2012	168	Defendant (pro se) files motion for reconsideration (RE: P#160) of Denial of Funds for Forensic Experts
02/13/2013	169	RENEWED MOTION by Deft to permit Funds for Forensic Expert Motion (P#169) withdrawn by Attorney Pelletier
02/25/2013	170	Correspondence to Muse, Justice, sitting at Plymouth Superior Court, with copy of P#163, P#164, P#167, P#170, P#171, and docket entries
02/25/2013	172	MOTION (P#168) Please notify office of DA of this motion: I had been waiting for its opposition, but discovered that motion had not been previously sent. (Muse, Justice) ADA Holler notified via telephone; Copies mailed to ADA, GGP
06/04/2013	173	MOTION by Commonwealth: to Enlarge Time for Filing Brief, Affidavit in support
06/25/2013	173	MOTION (P#173) allowed (Muse, Justice). Copies mailed 7/15/2013 to GGP, ADA
07/12/2013	174	Notice sent to appear on 8/9/2013 for Status Conference at 10:00 a.m. to ADA, GGP
07/15/2013	174	Commonwealth files opposition to defendant's motion for new trial (electronic copy of trial transcript attached)
07/30/2013	175	Habeas corpus for Deft at Concord MCI for 08/09/2013 at 9:00am; faxed/mailed
07/31/2013	176	MOTION by Deft: to declare defendant indigent; filed and ALLOWED (Muse, J.) Attys present
08/09/2013	177	Notice sent to appear on 09/06/2013 for Status Conference at 10:00 a.m. to ADA, GGP
08/19/2013	178	Defendant files MOTION to continue Conference: Status Review to 09/20/2013; Allowed, new date to be determined by the Court (Muse, Justice) faxed to parties

Charges

1 Charges for Docket: BACR1995-46579

No.	Charge Description:	Indictment:	Status:
1	MURDER c265 s1	BACR1995-46579	Guilty verdict

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